

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

BEFORE THE

ILLINOIS COMMERCE COMMISSION

IN THE MATTER OF:)
CHARMAR WATER COMPANY -) Nos. 11-0561
Proposed increase in water rates) 11-0562
(Tariffs filed June 29, 2011)) 11-0563
CHERRY HILL WATER COMPANY -) 11-0564
Proposed increase in water rates) 11-0565
(Tariff filed June 29, 2011)) 11-0566
CLARENDON WATER COMPANY -)
Proposed increase in water rates)
(Tariffs filed June 29, 2011))
KILLARNEY WATER CO. -)
Proposed increase in water rates)
(Tariffs filed June 29, 2011))
FERSON CREEK UTILITIES COMPANY -)
Proposed increase in water and)
sewer rates)
(Tariffs filed June 29, 2011))
HARBOR RIDGE UTILITIES, INC. -)
Proposed increase in water and)
sewer rates)
(Tariffs filed June 29, 2011))

Chicago, Illinois

January 26, 2012

1 Met, pursuant to adjournment, at

2 9 o'clock a.m.

3 BEFORE:

4 MR. GLENNON DOLAN,
Administrative Law Judge

5

APPEARANCES:

6

7 HOWARD & HOWARD ATTORNEYS, PLLC, by
MR. W. MICHAEL SEIDEL
200 South Michigan Avenue, Suite 1100
8 Chicago, Illinois
appearing for Charmar Water Company,
9 Cherry Hill Water Company,
Clarendon Water Company,
10 Killarney Water Company,
Ferson Creek Utilities Company, and
11 Harbor Ridge Utilities, Inc.;

12 MS. SUSAN L. SATTER
100 West Randolph
13 Chicago, Illinois 60601
appearing for People of the
14 State of Illinois

15 MS. JESSICA CARDONI and
MR. MIKE LANNON
16 160 North La Salle Street, Suite C-800
Chicago, Illinois
17 appearing for staff of the
Illinois Commerce Commission

18

19

20

21

22

1

2 JUDGE DOLAN: By the direction of the Illinois
3 Commerce Commission, I call Docket Nos. 11-0561,
4 11-0562, 11-0563, 11-0464, 11-0565, and 11-0566, the
5 Charmar Water Company, Cherry Hill Water Company,
6 Clarendon Water Company, Killarney Water Company,
7 proposed increase in water rates, and the Ferson
8 Creek Utilities Company and the Harbor Ridge
9 Utilities, Incorporated, proposed increase in water
10 and sewer rates to order.

11 Will the parties please identify
12 themselves for the record.

13 MR. SEIDEL: W. Michael Seidel from the law firm
14 of Howard & Howard, Attorneys, PLLC, 200 South
15 Michigan Avenue, Suite 1100, Chicago, Illinois,
16 60604, appearing on behalf of the companies.

17 MS. CARDONI: Appearing on behalf of the staff
18 witnesses for the Illinois Commerce Commission,
19 Jessica Cardoni and Mike Lannon, 160 North La Salle
20 Street, Suite C-800, Chicago, Illinois, 60601.

21 MS. SATTER: Appearing on behalf of the People of
22 the State of Illinois, Susan L. Satter, 100 West

1 Randolph Street, Chicago, Illinois, 60601.

2 JUDGE DOLAN: All right. Let the record reflect
3 there are no other appearances.

4 (No further appearances.)

5 Ms. Satter, are you prepared to present
6 your witness?

7 MS. SATTER: Yes, I am. I'll start with him. I
8 would like to present the testimony of Michael L.
9 Brosch.

10 Mr. Brosch, are you available on the
11 telephone?

12 MR. BROSCH: Yes, I am. Good morning.

13 MS. SATTER: Good morning. I'd like to ask
14 you -- if you could be sworn by the judge.

15 JUDGE DOLAN: Mr. Brosch, please raise your right
16 hand.

17 (Whereupon, AG Exhibit
18 Nos. 1.0 thru 1.7 were
19 previously marked for
20 identification.)

21

22

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

(Whereupon, AG Exhibit
Nos. 2.0 thru 2.5 were
previously marked for
identification.)
(Witness sworn.)

All right. Proceed, counsel.

MICHAEL L. BROSCH,
called as a witness herein, having been first duly
sworn, was examined and testified as follows:

DIRECT EXAMINATION
BY
MS. SATTER:

Q. Mr. Brosch, did you prepare the Direct
Testimony of Michael L. Brosch on behalf of the
People of the State of Illinois dated October 20,
2011?

A. Yes, I did.

Q. And does that -- has that been marked as
AG Exhibit 1.0?

A. Yes.

Q. And attached to that testimony are the

1 following exhibits: AG Exhibit Nos. 1.1, 1.2, 1.3,
2 1.4, 1.5, 1.6, and 1.7?

3 A. That's correct. Yes.

4 Q. And if I were to ask you the questions
5 contained in this testimony, would your answers be
6 the same?

7 A. Yes, they would.

8 Q. And was this testimony and were the exhibits
9 prepared under your direction and control?

10 A. They were, yes.

11 Q. And are they correct to the best of your
12 information and knowledge?

13 A. Yes.

14 Q. Okay. Now I'd like to turn your attention
15 to a second document, the Rebuttal Testimony of
16 Michael L. Brosch on behalf of the People of the
17 State of Illinois. Now there was a revision filed
18 January 18, 2012, correct?

19 A. That's correct. There was a revision to
20 AG Exhibit 2.1.

21 MS. SATTER: And we will offer the revised
22 document as Mr. Brosch's testimony.

1 MS. SATTER: Q. So your rebuttal testimony is
2 marked as AG Exhibit 2.0, and the exhibits are
3 AG 2.1 Revised, AG 2.2, AG 2.3, AG 2.4, and AG
4 Exhibit 2.5, correct?

5 A. That is correct.

6 Q. And if I were to ask you questions contained
7 in this testimony, would your answers be the same?

8 A. They would, yes.

9 Q. And was this testimony prepared under your
10 direction and control?

11 A. It was, yes. And I believe there were
12 revisions to a few places in the testimony itself,
13 Exhibit 2.0, to conform with the changes to Exhibit
14 2.1.

15 Q. And those were reflected in the January 18th
16 filing; isn't that correct?

17 A. I trust that they were, yes.

18 Q. Okay. And the changes to 2.1 modified the
19 period of the phase-in and the changes in the
20 testimony were made essentially to reflect the
21 changes in 2.1; is that right?

22 A. That is correct. There were errors

1 discovered in some of the phase-in calculations and
2 some of the print ranges were incomplete, so those
3 corrections have been made in 2.1 revised.

4 Q. And, to the best of your information and
5 knowledge, are the statements and exhibits in the
6 testimony true and correct?

7 A. Yes.

8 MS. SATTER: Okay. I'd like to offer this
9 testimony as Mr. Brosch's testimony in this case and
10 offer Mr. Brosch for cross-examination.

11 JUDGE DOLAN: Any objections?

12 MS. CARDONI: None.

13 JUDGE DOLAN: All right. Then AG Exhibit 1.0,
14 along with Exhibits 1.1 through 1.7 will be admitted
15 into the record, and then AG Exhibit 2.0 -- are we
16 saying revised or --

17 MS. SATTER: Yes, I am. We should say revised.

18 JUDGE DOLAN: Okay. 2.0 revised along with 2.1
19 revised and Exhibits 2.2 through 2.5 will be
20 admitted into the record.

21

22

1

2

(Whereupon, AG Revised

3

Exhibits Nos. 1.0 thru

4

1.7, 2.0 thru 2.5 were

5

received in evidence.)

6

MS. SATTER: Thank you.

7

JUDGE DOLAN: Proceed, Counsel.

8

CROSS EXAMINATION

9

BY

10

MS. CARDONI:

11

Q. Good morning, Mr. Brosch. My name --

12

A. Good morning.

13

Q. -- is Jessica Cardoni and I represent staff

14

counsel. Please let me know if at any point in time

15

you can't hear me on the phone, okay?

16

A. Okay.

17

Q. At this time I just want to ask you a couple

18

of questions about both your direct and your revised

19

rebuttal. I assume you have those with you at this

20

time.

21

A. I do, yes.

22

Q. Okay. Let's start, if we can, with your

1 direct testimony. I want to refer you to Page 10
2 and 11 of that testimony, and let me know when you
3 are in that vicinity.

4 A. All right. I'm there.

5 Q. You mentioned Docket No. 06-0411, correct?
6 And that's the proceeding dealing with petition for
7 approval of tariffs implementing Com Ed's proposed
8 residential rates stabilization program?

9 A. I do, yes.

10 Q. Would you say that your phase-in plan is
11 similar to Com Ed's residential rate stabilization
12 program, as described in your testimony?

13 A. It's certainly similar in intent in that it
14 was limited to the size and immediacy of rate
15 increases so they would be less dramatic or
16 potentially shocking to shareholders or -- excuse
17 me -- to ratepayers.

18 Q. Would you agree that your proposed phase-in
19 plan is sort of like a loan program from UI to its
20 customers?

21 A. I'm not sure I completely agree with that
22 characterization. I think it is a plan that would

1 defer the recovery of certain costs. I don't think
2 it serves to obligate specific customers to pay any
3 particular amounts with formality.

4 Q. But isn't it true that in your plan this
5 plan is a mandatory plan, so people don't have the
6 choice of whether or not they want to defer their
7 rates or pay them now?

8 A. I see it as a plan that establishes a price
9 path that customers can elect to pay to the extent
10 they take service from the utility in the future.

11 Q. But you don't discuss the fact that it's
12 mandatory. You don't discuss that customers could
13 have the option of not deferring their payments and
14 paying it all up-front, do you?

15 A. I do not propose in my testimony to allow
16 customers a choice of prices, one set of prices
17 being with phase-in and another set of much higher
18 prices being without phase-in, if that's responsive
19 to your question.

20 Q. Can I direct you to Page 6 of your testimony
21 which starts on Line 19 -- 119. I'm sorry.

22 A. All right. I'm there.

1 Q. You state "Water and sewer ratepayers who
2 are accustomed to charges of 15 to \$30 per month for
3 utility services would experience significant
4 pressure upon household budgets if the company's
5 proposed rate changes are approved."

6 Do you use any kind of a study to
7 support that conclusion?

8 A. No. I'm relying upon my experience in
9 utility regulatory matters for more than 30 years.

10 Q. But you don't cite to a report, or a
11 journal, or any kind of specific analysis about
12 these specific customers, do you?

13 A. No. No. As I said, I rely upon my own
14 experience.

15 I have been a ratepayer for many years.
16 I pay attention to my monthly bills, and I find -- I
17 have been exposed in public hearings and other
18 forums to direct comments from ratepayers that have
19 expressed serious concerns with the size of their
20 utility bills, and that's what I draw upon in
21 testifying here.

22 Q. Okay. I want to turn to your rebuttal --

1 excuse me -- your revised rebuttal. Just for
2 consistency, could I have you turn to Page 14.

3 MS. SATTER: Would you mind mentioning the line
4 number?

5 MS. CARDONI: Yes.

6 MS. CARDONI: Q. And I would like you to focus
7 on Lines 253 to 255, and there you state "All
8 planned phase-in rate changes that were not
9 implemented at the date of the new rate case filing
10 should be canceled to be superceded by new rate and
11 revenue levels found reasonable by the Commission in
12 any future rate case proceedings."

13 Q. Now --

14 A. Yes, I see that.

15 Q. -- does that mean that the company would not
16 be allowed to collect its Commission approved
17 revenue requirements for the phase-in years if it
18 came in for a new rate case before that time period?

19 A. Not necessarily. I think it would be up to
20 the Commission to decide at that time if the
21 regulatory assets not yet recovered should continue
22 to be recoverable.

1 I would expect the company to argue
2 that those costs should be recovered, and the
3 Commission certainly would have the discretion to do
4 so if it saw that as reasonable under the
5 circumstances at that time.

6 MS. CARDONI: All right. I don't have any more
7 questions for Mr. Brosch.

8 JUDGE DOLAN: Mr. Seidel?

9 MR. SEIDEL: Thank you.

10 CROSS EXAMINATION

11 BY

12 MR. SEIDEL:

13 Q. Good morning, Mr. Brosch.

14 A. Good morning.

15 Q. Mike Seidel. I'm representing the companies
16 in these cases. Do you see me on the phone? Oh,
17 no, we're not on the video.

18 A. No, I can't see you.

19 Q. You have to picture me in your mind.

20 MR. LANNON: Oh, no.

21 MS. SATTER: Lucky you.

22 MR. SEIDEL: Q. Actually I had a question on

1 that same section of your testimony. And is it my
2 understanding that the Commission, in the case of a
3 new rate case filed before the shortfall's
4 recovered, would have the option of considering
5 whether the unrecovered shortfall should be included
6 in the revenue requirement that the new rates would
7 be designed to recover?

8 A. I'm not sure I completely follow your
9 question. I intended in this testimony to indicate
10 that the Commission would be about the business of
11 setting new rates in a NIX rate case. And I would
12 expect if there were at that time unrecovered
13 deferred expenses from a prior case, the company
14 could and probably would assert its right to recover
15 those deferred costs, and the Commission would
16 consider that request at that time.

17 Q. Under what circumstances would the
18 Commission not allow the recovery of those deferred
19 costs?

20 A. I don't know. I just am not in this
21 testimony supposing any particular outcome other
22 than it would be an issue for consideration in the

1 decision by the Commission at that time.

2 Q. Now assuming that the shortfall hasn't been
3 fully recovered, we're out in the fourth or fifth
4 year of the plan, and there are -- the company is
5 incurring new costs -- new increased costs through
6 inflation or other investments being required to
7 make -- comply with environmental or other
8 regulatory requirements so that a new rate case is
9 filed, and the -- under the current rates recovering
10 the shortfall, you're up against the 20 -- your
11 current rates are currently 20 percent higher than
12 the previous year's rates.

13 When the new rates are approved under
14 your plan, would the new rates be for the first year
15 of the plan -- for the first year would the new
16 rates be allowed to go above the 20 percent cap that
17 you place on the rates from the prior year?

18 A. It is difficult to foresee the particulars
19 of a case that might be filed in four years. For
20 example, it's difficult without some specific
21 information in hand to know whether a continuing
22 price path with 20 percent increases would be

1 acceptable and reasonable at that time under those
2 circumstances. It may be possible, given the size
3 of the increases being requested then, to change the
4 plan to modify it for a slightly lower price path or
5 conceivably a higher price path.

6 And in structuring the revisions at
7 that time, it might be necessary to lengthen or
8 shorten the term of the plan, but I don't think it
9 is knowable today what the revenue requirement might
10 be in four years or what an acceptable scenario for
11 modification of the plan might be at that time. I
12 think it would have to be considered given the facts
13 then before the Commission.

14 Q. Under what circumstances can you envision
15 that a need for a rate case would file before the
16 shortfall was fully recovered decrease the length of
17 time for the phase-in plan?

18 MS. SATTER: I'm going to object, because that
19 calls for speculation on the part of the witness,
20 because he really has no way of knowing, and
21 certainly the internal conditions of the company are
22 just beyond his -- future internal conditions of the

1 company are certainly beyond his or anybody's
2 ability to forecast.

3 JUDGE DOLAN: If you can rephrase it.

4 MR. SEIDEL: I don't -- I agree it calls for
5 speculation, but, of course, his plans proposing
6 rates in some instances goes out eleven years into
7 the future, which is far different than the
8 traditional rate-making regulations that are now
9 enforced, the tradition followed.

10 And to the extent he's proposing a plan
11 that goes on eleven years, I think we need to know
12 what the -- you know, what contingencies -- you
13 know, maybe his answer is that I can't speculate as
14 to what would happen. If that's a fallen plan, I'd
15 like to know it.

16 JUDGE DOLAN: All right. To the extent that he
17 might be able to know, I'm going overrule the
18 objection, if he thought about it at all, so --

19 THE WITNESS: Let me try to respond in this way.
20 It is conceivable that given the size of the revenue
21 requirement for Charmar in the present case that we
22 could in four years see a scenario where the company

1 has no need for further rate increases.

2 We could foresee a scenario where
3 revenue requirements have begun to decline or we
4 could see a scenario where Charmar has a significant
5 positive revenue requirement above present rate
6 levels at that time.

7 I think the Commission would have to
8 consider the evidence before it, including the
9 balance in the deferral account and the price path
10 that rates have been on and make appropriate
11 adjustments to the tariffs at that time.

12 MR. SEIDEL: Q. My question was intended to
13 focus on the case where there was a significant need
14 for an increase in the revenue requirement from --
15 due to circumstances that occur after the rates have
16 been placed into effect.

17 In that instance where the current
18 rates are not recovering existing costs of the
19 provided service, can you foresee under what
20 circumstances would that result in a shortening of
21 the plan?

22 A. Well, if the Commission were convinced that

1 costs were continuing to escalate under your
2 hypothetical such that the 20 percent per year price
3 path we had been on was no longer sustainable and we
4 needed to make an upward adjustment to the price
5 path to more aggressively recover deferred costs in
6 current period costs, the Commission could do that.

7 Q. Am I correct that under your plan that the
8 rates that would be filed at the conclusion of this
9 case would have -- for instance, Charmar would have
10 to have -- there would have to be seven rate periods
11 with seven different rates for each -- a lot of rate
12 periods with eleven different rate charges for each
13 year the plan is in effect?

14 A. There would be a series of tariffs that
15 would for seven years have an annual anniversary
16 date with revised higher prices.

17 Q. I think you said seven. Under your plan,
18 would it call for eleven years?

19 A. No. The additional years are the recovery
20 years. Actually let me restate my answer.

21 If you look at Revised AG Exhibit 2.1,
22 Pages 1 and 2 reflect the plan for Charmar, and they

1 show actually eight years of phase-in rate amounts,
2 then if you look at the summary table, you can see
3 that the deferrals commence recovery in year six and
4 are fully recovered by year eleven.

5 Q. Correct. But each year would have a
6 different rate that would need to be in effect to
7 effectuate those recoveries?

8 A. That's correct. I envision there being a
9 series of tariffs with future effective dates that
10 would allow the company to implement annual rate
11 changes pursuant to a schedule like this, the
12 corporation -- the final approved revenue
13 requirement and a series of step increases that
14 would recover gradually the approved revenue
15 requirement, including the deferral, and then an
16 amortization of costs to accommodate that plan.

17 Q. And you haven't prepared a calculation of
18 what those rates would be yet; is that correct?

19 A. It is not possible to prepare that
20 calculation until the revenue requirement has been
21 determined.

22 Q. But you haven't done it for staff's proposed

1 revenue requirement or your proposed revenue
2 requirement?

3 A. That's correct. I don't actually have a
4 proposed revenue requirement. I proposed a series
5 of adjustments that I asked the Commission to
6 consider along with the other issues in the case,
7 which have been discussed between staff and the
8 company, and I believe largely resolved at this
9 point.

10 MR. SEIDEL: That's all the questions that I
11 have. Thank you, Mr. Brosch.

12 THE WITNESS: Thank you.

13 JUDGE DOLAN: Any redirect?

14 MS. SATTER: I just have one question.

15 REDIRECT EXAMINATION

16 BY

17 MS. SATTER:

18 Q. Mr. Brosch, are you a rate design expert?

19 A. I have sponsored testimony on rate design in
20 other proceedings.

21 Q. But in this case you did not offer a
22 specific rate design. You just offered a revenue

1 requirement recovery plan?

2 A. That's correct. I was not asked by your
3 office to focus on cost of service or rate design
4 issues. My emphasis was on the subject matters set
5 forth in my testimony.

6 Q. Okay. Thank you.

7 JUDGE DOLAN: Any recross?

8 MS. CARDONI: None.

9 MR. SEIDEL: Not on my behalf. Thank you.

10 JUDGE DOLAN: All right. Okay. That's all we
11 need then, Mr. Brosch. Thank you very much.

12 THE WITNESS: All right. Thank you. I'll hang
13 up now.

14 MS. SATTER: Thank you.

15 JUDGE DOLAN: We are going to go off the record
16 here, take a quick break, and get the phone system
17 squared away.

18 MS. SATTER: I want to thank you for allowing
19 Mr. Brosch to appear by phone. I would like that to
20 be on record. He said we really do appreciate it.
21 It's a big help.

22 (Off the record.)

1 (On the record.)

2 Hathhorn is the witness.

3 JUDGE DOLAN: Are we ready?

4 MS. SATTER: Yes. I am sorry for the delay.

5 JUDGE DOLAN: That's okay.

6 Good morning, Ms. Hathhorn. How are you.

7 MS. HATHHORN: Good morning. Fine. Thank you.

8 JUDGE DOLAN: Okay. Are we ready to present our
9 next witness, Staff?

10 (Whereupon, ICC Staff
11 Exhibit Nos. 1.0 &
12 9.0 were previously
13 marked for
14 identification.)

15 MS. CARDONI: At this time staff calls Diana
16 Hathhorn to the stand.

17 JUDGE DOLAN: Ms. Hathhorn, would you please
18 raise your right hand.

19 (Witness sworn.)

20 DIANA HATHHORN,
21 called as a witness herein, having been first duly
22 sworn, was examined and testified as follows:

1

2

DIRECT EXAMINATION

3

BY

4

MS. CARDONI:

5

Q. Could you please state your full name for
6 the record and spell your last name.

7

A. My name is Diana Hathhorn. My last name is
8 spelled H-a-t-h-h-o-r-n.

9

Q. And who is your employer and what is your
10 business address?

11

A. I am employed by the Illinois Commerce
12 Commission in the Financial Analysis Division of the
13 Accounting Department. My business address is
14 527 East Capitol Avenue, Springfield, Illinois,
15 62701.

16

Q. Did you prepare written exhibits for
17 submittal in this proceeding?

18

A. Yes, I did.

19

Q. Do you have before you a document which has
20 been marked for identification as ICC Staff Exhibit
21 1.0 consisting of a cover page, table of contents,
22 19 pages of narrative testimony, attached schedules,

1 and is entitled, "The Direct Testimony of Diana
2 Hathhorn?"

3 A. Yes, I do.

4 Q. Did you prepare that document for
5 presentation in this matter?

6 A. Yes.

7 Q. Do you also have before you a document which
8 has been marked for identification as ICC Staff
9 Exhibit 9.0 consisting of a cover page, table of
10 contents, 9 pages of narrative testimony, attached
11 schedules, and is entitled, "The Rebuttal Testimony
12 of Diana Hathhorn?"

13 A. Yes, I do.

14 Q. Did you prepare that document for
15 presentation in this matter?

16 A. Yes.

17 Q. Do you have any corrections to make to ICC
18 Staff Exhibits 1.0 and 9.0?

19 A. I do not.

20 Q. Is the information contained in ICC Staff
21 Exhibits 1.0 and 9.0 true and correct to the best of
22 your knowledge?

1 A. Yes, it is.

2 Q. And if I were to ask the same questions as
3 set forth in ICC Staff Exhibits 1.0 and 9.0, would
4 your responses be the same today?

5 A. Yes, they would.

6 MS. CARDONI: At this time, your Honor, I move
7 for admission into evidence of ICC Staff Exhibits
8 1.0 and 9.0, and I note for the record that these
9 are the same documents that were filed via e-docket
10 on October 20th and December 15, 2011.

11 JUDGE DOLAN: Any objections?

12 MR. SEIDEL: No, your Honor.

13 MS. SATTER: No.

14 JUDGE DOLAN: All right. Then ICC Staff Exhibit
15 1.0 and ICC Staff Exhibit 9.0 with the attached
16 schedules will be admitted into the record.

17 (Whereupon, ICC Staff
18 Exhibit Nos. 1.0 & 9.0
19 were received in
20 evidence.)

21 MS. CARDONI: Thank you. And at this time

22 Ms. Hathhorn is available for cross.

1 MS. SATTER: I have some questions.

2 JUDGE DOLAN: Okay.

3 MS. SATTER: I assume the company does not.

4 JUDGE DOLAN: Do you want go first?

5 MR. SEIDEL: Not at this time.

6 JUDGE DOLAN: All right. Proceed, Ms. Satter.

7 MS. SATTER: Thank you.

8 CROSS EXAMINATION

9 BY

10 MS. SATTER:

11 Q. Ms. Hathhorn, we're doing this by video. Is
12 it okay? Can you see --

13 A. I can see.

14 Q. -- me and I can see you. Very good.

15 I'd like to focus on your rebuttal
16 testimony.

17 A. Okay.

18 Q. So starting on Page 6 of your rebuttal
19 testimony, you respond to AG witness Brosch's
20 recommendation regarding eight zero cash working
21 balance allowance, and you state at Line 126, the
22 companies have explained a lead-lag study would be

1 cost prohibitive based upon the revenues expected to
2 generate versus the increased cost to rate case
3 expense, right?

4 A. Yes.

5 Q. Now do you agree that utilities need to
6 justify all parts of their revenue requirements that
7 will be charged to consumers?

8 A. Yes.

9 Q. And if it turns out that the companies'
10 lead-lag study concluded that the companies actually
11 experienced a negative cash working capital balance,
12 would it have been a waste of effort and rate case
13 expense to measure and quantify the negative cash
14 working capital balance in your opinion?

15 A. My understanding is that the companies do
16 not have a lead-lag study conducted, so there's no
17 way to know if they would have produced a negative
18 expense.

19 Q. Had they conducted a lead-lag study though
20 and incurred that expense, then it would have been
21 possible to determine one way or the other; isn't
22 that correct?

1 A. I don't understand your question. To
2 determine what one way or the other?

3 Q. Whether or not there was a positive or
4 negative cash working capital requirement.

5 A. I would agree that preparation of a lead-lag
6 study would produce results that would show that
7 cash working capital would be either a positive or a
8 negative number.

9 Q. If it turned out that the lead-lag study
10 showed a negative cash working capital adjustment,
11 do you agree that would benefit consumers by
12 reducing the revenue requirement in the long run?

13 A. Only to the extent that that negative
14 capital return -- rate of return was greater than
15 the process of preparing the study, and the internal
16 company resources to analyze the study, and answer
17 discovery, and conduct the study.

18 Q. And, just for the record, a cash working
19 capital adjustment when it is positive increases
20 rate base; is that correct?

21 A. That is correct.

22 Q. And then the companies are entitled to

1 receive a return on that incremental increase to
2 rate base, correct?

3 A. Correct.

4 Q. And if it's a negative cash working capital
5 adjustment, then there is a deduction from rate base
6 so rate base is smaller; is that correct?

7 A. That's correct.

8 Q. Okay. Would you agree that the companies
9 should not be awarded a positive cash working
10 capital adjustment based upon the 45-day formula if
11 there is evidence that the results of the formula
12 are not reasonable?

13 A. That's correct, because the companies' rates
14 have to be just and reasonable.

15 Q. Do you understand that larger utilities in
16 Illinois, such as Commonwealth Edison, or Ameren, or
17 Peoples Gas, are -- let me put it this way. Do you
18 believe that larger utilities, such as those
19 companies, should be allowed to use the 45-day
20 formula even if a lead-lag study was supporting a
21 negative cash working capital amount?

22 A. I don't believe the Commission would approve

1 use of the 45-day method if a lead-lag study was
2 produced.

3 Q. Do you know whether in the most recent
4 Commonwealth Edison formula case, 11-0721, the
5 staff, in fact, found that Commonwealth Edison had
6 negative cash working capital?

7 A. I do not know.

8 Q. Do you know what the origin of a 45-day cash
9 working capital approach is?

10 A. I don't know that I know the origin. I have
11 seen it written up in regulatory authority textbooks
12 and in practice for many years.

13 Q. Do you know where it started in Illinois?

14 A. No.

15 Q. Does the 45-day formula assume that the
16 utility takes on average 45 days to collect its
17 revenues from customers after service is rendered?

18 A. That's my understanding, yes.

19 Q. And under the 45-day formula, what is
20 assumed regarding the delay the utility experiences
21 in paying its employees after they've provided labor
22 to the utility? In other words, what's the lag in

1 payment?

2 A. I believe that's the 45 days.

3 Q. So is it assumed that the utility pays its
4 employees 45 days after they provide service?

5 A. I believe that's the theory.

6 (A brief pause.)

7 I'm finished.

8 Q. Okay. Do you know whether, in fact, there
9 is a 45-day lag between when an employee ordinarily
10 provides service and when an employee is paid?

11 A. I do not.

12 Q. Do you know if labor costs are assumed to be
13 paid immediately under the 45-day formula?

14 A. I'm not certain.

15 Q. Okay. Do you know what is assumed about how
16 the utility pays for non-labor expenses, such as
17 electricity, chemicals, you know, those sorts of
18 things? Do you know what's assumed relative to the
19 period of time between when they obtain the product
20 or service and when payments are made?

21 A. The only thing I can say for certain is that
22 the assumption is the same for all payments, because

1 it's based on a formula. There's no distinction
2 between labor and chemicals, that kind of thing.

3 Q. Do you know if -- do you know if the
4 assumption is the same for both payments and
5 receipts?

6 A. I believe so.

7 Q. Do you know if under the 45-day formula
8 there is any consideration given for the statutory
9 payment date for property taxes or income taxes?

10 MR. SEIDEL: Objection. There's no showing that
11 the 45-day method includes income taxes or taxes, so
12 I think it assumes a fact that's not in evidence.

13 MS. SATTER: I really don't think it's
14 appropriate for Mr. Seidel to testify in response to
15 a question I ask another witness.

16 MR. SEIDEL: The objection is -- if the question
17 was are child care expenses considered in the
18 lead-lag study, I would object saying there is no
19 showing that child care expenses are included in the
20 45-day method.

21 My objection is she's asked the witness
22 a question which assumes that income taxes are

1 included in the 45-day method, and I don't think
2 that's been established. It assumes facts not in
3 evidence.

4 MS. SATTER: Actually any consideration given.

5 JUDGE DOLAN: Based on that, I'm going to
6 overrule. If she knows, she knows. If she doesn't,
7 then --

8 THE WITNESS: There's no consideration given to
9 counting those income taxes, because they are not
10 part of the calculation.

11 MS. SATTER: Q. So they're just excluded
12 altogether?

13 A. Yes.

14 Q. Would you agree that it is mathematically
15 impossible for the 45-day formula to produce a zero
16 or negative cash working capital amount unless the
17 utilities' operating expenses are also negative?

18 A. That's correct.

19 Q. Now on Line 129 on the same page, Page 6,
20 you say that the companies are correct that the
21 Commission did not reject the use of the 45-day
22 formula amount for the small water and waste water

1 utilities.

2 Is it your opinion that the Commission
3 must always allow the 45-day formula cash working
4 capital allowance for water and waste water
5 utilities?

6 A. That's up to the Commission, but, I mean, if
7 there were evidence that that method was not
8 appropriate for a certain small company or the
9 Commission should choose to reject it.

10 Q. So the Commission has the authority to
11 reject the use of the 45-day formula if there's
12 evidence that the application for the 45-day formula
13 is not reasonable under the circumstances of the
14 case?

15 A. That's correct.

16 Q. Okay.

17 Now I have some questions for you about
18 labor costs, and on Page 7, again, of your rebuttal,
19 at Line 153, you say the companies are correct that
20 the test year capitalized salary costs related to
21 internal labor are deducted from salary amounts in
22 the test year and, therefore, no double counting

1 occurs.

2 Is it correct that the staff has
3 included Utilities, Inc. or UI's internal labor
4 within rate case expenses to be deferred and
5 amortized in setting rates?

6 A. Yes, that's correct.

7 Q. Would you agree that we're talking about
8 whether or not rate case expense is accumulated and
9 amortized -- let me start this over. Okay. Let me
10 step back for one minute.

11 The companies' rate case costs include
12 both internal labor and external costs; is that
13 correct?

14 A. That's correct.

15 Q. So when we say "internal labor," are we
16 referring to the services provided by the employees
17 of the Water Services Company, WSC?

18 A. Yes.

19 Q. So when I say "internal labor," that's what
20 I'm referring to, so we're on the same page on that.

21 A. Correct.

22 Q. So would you agree that we're talking about

1 whether or not rate case expense that is accumulated
2 and amortized should include company labor costs,
3 that is internal labor as well as outside lawyers
4 and consultants?

5 A. Yes.

6 Q. Now do you understand Mr. Brosch's concern
7 to be that allowing internal labor hours and costs
8 to be recovered is part of the rate case expense
9 while also including WSC internal labor within the
10 approved O & M Expenses may result in the utility
11 recovering more than 100 percent of its total
12 internal labor costs?

13 A. That's what his testimony says.

14 Q. That's the issue as he's presented it,
15 correct?

16 A. Yes.

17 Q. Now at Line 153 you used the term
18 "capitalized salary costs." Can you explain what's
19 included in that term as you have used it on Page 7?

20 A. Sure. The company can record capitalized
21 salary costs for I believe two reasons, one is if
22 it's related to capitalized projects, a plant item,

1 or if it's related to working for a rate case, and
2 so those costs are captured separately and then
3 they're either booked to plant or deferred and then
4 used in capitalization of rate case expenses.

5 Q. Now I believe I previously let you know that
6 we would be asking you some questions about your
7 responses to AG Exhibit 1.1, so I'd like to ask you
8 to look at your responses to AG 1.1 through 1.6 and
9 the attachment to 1.1 and I'd like to ask that that
10 package of materials be marked as AG Cross Exhibit
11 No. 2. I've previously circulated that to the
12 parties.

13 (Whereupon, AG Cross
14 Exhibit No. 2 was
15 previously marked for
16 identification.)

17 JUDGE DOLAN: Before we go any further, is there
18 any confidential information in this that we need to
19 know about?

20 MS. SATTER: I don't believe so. Maybe I'll -- I
21 gave you a copy, but you can look at this.

22 MR. SEIDEL: Today or yesterday?

1 MS. SATTER: Just now.

2 I don't believe there is, because it's
3 all accurate information. There's no names. No
4 individuals are included.

5 JUDGE DOLAN: Okay. I just wanted to make sure
6 so we're clear.

7 MS. SATTER: Q. Okay. Now, Ms. Hathhorn, you
8 prepared responses to AG Data Requests 1.1 through
9 1.6, correct?

10 A. That's correct.

11 Q. Would you agree that AG Request 1.1 asked
12 you to provide the specific amounts of internal
13 labor that are deducted for each utility?

14 A. Yes.

15 Q. And would you agree that the response to
16 this request references a certain spreadsheet
17 attachment where the accounting details are
18 presented?

19 A. Yes.

20 Q. And there's one for each company?

21 A. That's correct.

22 Q. Just looking at the spreadsheet, at the top

1 it says the docket number and the attachments. And
2 would you agree with me that at Line 13 the name of
3 the individual company is indicated?

4 A. Yes.

5 Q. Okay. So if we wanted to know which company
6 we are talking about, we would have to go to Line
7 13, correct?

8 A. Correct.

9 Q. Okay.

10 A. I see it also on Line 2.

11 Q. You are correct. It's also on Line 2. And
12 actually it's on 2, 7, 11, and 13. Okay. Great.

13 A. Right.

14 Q. Now just using Charmar, because that's the
15 first one, would you agree that the total labor
16 costs fall into three categories, and those
17 categories are at Line 1, total WSC salaries; Line
18 6, total office salaries; and Line 10, total
19 operations salaries?

20 A. Yes.

21 Q. And can you describe generally what the
22 employees in each of these groups do or what's your

1 understanding of these categories?

2 A. WSC salaries are the cost of the service
3 company employees for all the shared costs of the
4 operations versus operations salaries. My
5 understanding is those are the people that actually
6 run the plant, and office salaries are additional
7 office help.

8 Q. Do you know where billing is listed?

9 A. I couldn't hear you.

10 Q. Do you know where billing is?

11 A. I'm not certain.

12 Q. Now at Line 13 the caption indicates that
13 this is the subtotal internal Charmar salaries
14 included in the test year expense. Actually it
15 looks like it's on Line 14. So for Charmar is it
16 correct that the total salary expense allocated to
17 that company was \$4,033 in the test year?

18 A. That's the correct total prior to the
19 company's adjustment for capitalized time.

20 Q. And would you agree that the reference to
21 allocation in each category of salaries is the
22 process of allocating the overall annual salary

1 costs in each category incurred by the company as a
2 whole to Charmar --

3 A. Correct.

4 Q. -- or to whatever company it is?

5 A. Right.

6 Q. And that's based on an allocation factor.

7 Do you know what the allocation factor is based on?

8 A. It's the ERC method that's approved in the
9 affiliated interest agreement.

10 Q. And ERC stands for -- do you know?

11 A. I believe it's the equivalent residential
12 customers.

13 Q. Connections or customers? Does that sound
14 right?

15 A. Something like that, yes.

16 Q. Is that essentially per customer?

17 A. It's pretty close, yes.

18 Q. So it's allocated by number of customers?

19 Now next can you explain what's
20 happening in the captive allocation adjustment at
21 Line 17? Is that where the test year overall labor
22 costs allocated to Charmar are reduced for amounts

1 charged to rate case expense or capital projects?

2 A. The adjustment at Line 17 would represent
3 any rate case expenses of the company's labor for
4 cases outside of Illinois or capital projects and
5 it's also updating where the ERC is at 9-30-2010.

6 Q. So it's an adjustment for a change in the
7 number of employees?

8 A. Yes. It's my understanding that the ERC's
9 preventative changes monthly, and so as part of this
10 adjustment is -- even if there were no capitalized
11 time, this -- my understanding is that since the ERC
12 preventative changes monthly, there's always some
13 small adjustment to make sure that the test years
14 reflected the most current year.

15 Q. Okay. So then, to the extent that there are
16 changes in the number of customers throughout the
17 Utilities, Inc., companies, there will be a change
18 at Line 17 to capture that change?

19 A. Right.

20 Q. So if the company loses customers in another
21 state, theoretically the percentage of the
22 allocation to Illinois would increase?

1 A. They could. I mean, for example, Line 1,
2 the total WSC salaries it wasn't all accrued on
3 9-30-2010. It happened over the course of a year,
4 so perhaps some of that was incurred at a different
5 ERC percentage than exist at the end of the test
6 year. So part of this adjustment, my understanding,
7 is to insure that the test year stated is the most
8 recent ERC percentage at the end of the test year
9 period.

10 Q. Do you know is it the end of the year?

11 A. Well, our test year ended at 9-30-2010, so
12 that's what it would mean current.

13 Q. Okay. End of the test year. I'm sorry. I
14 should have said test year; is that right?

15 A. Yes, it is the 9-30-2010.

16 Q. Is Line 19 the amount of Charmar's internal
17 labor expense that staff has included in the test
18 year before we consider the additional internal
19 labor for the current test year?

20 A. Correct.

21 Q. Okay. And that amount is \$2,691?

22 A. Yes.

1 Q. So if there were no rate case expense being
2 added to the Charmar cost of service, the \$2,691
3 would be the total internal salary cost for that
4 company; is that correct?

5 A. On the expense side. The amounts that I
6 have quantified that would be part of the
7 capitalized plan additions.

8 Q. Right. And those are reflected on Line 17,
9 correct?

10 A. That's part of it, yes.

11 Q. So that's excluded from this particular
12 calculation?

13 A. Right.

14 Q. And so those employee costs would then be
15 rolled into -- possibly be rolled into rate base for
16 the company that it's allocated to?

17 A. Correct.

18 Q. So do you believe that the allocations of
19 the WSC, the office and the operations salaries, are
20 reasonable and should be recovered in setting rates
21 for the company?

22 A. Yes, I do.

1 Q. So in your testimony you say that the
2 companies are correct that the test year capitalized
3 salary costs related to internal labor are deducted
4 from the salary amounts in the test year, so,
5 therefore, there's no double counting, and so
6 that's -- you are referring to Line 17?

7 A. Correct.

8 Q. The 1,342?

9 A. Yes.

10 Q. So is it your testimony that if this amount
11 were not deducted Mr. Brosch would be correct
12 regarding the double recovery of labor costs, but
13 that because this \$1,342 is removed, there is no
14 double counting?

15 A. That's not entirely the issue. The
16 capitalized adjustment is necessary, but the bulk
17 of -- in fact, all of the internal labor for the
18 rate case expense costs occur after 9-30-2010.

19 So even if the company, for whatever
20 reason, didn't make the capitalized allocation
21 adjustment, the bulk of the cost would not be
22 repeated, because, for example, on this -- for

1 Charmar, Line 22, the 79,339 that's concurred after
2 9-30-2010, so it's not a part of the labor above.

3 Q. Okay. So then the result of your
4 recommendations here is that the \$2,691 internal
5 labor cost will be increased by \$79,339; is that
6 right?

7 A. Well, the 79,339 would be amortized over the
8 5-year rate case expense amortization period.

9 Q. But the 52 customers in Charmar will be
10 responsible for internal labor costs of Utilities,
11 Inc.'s Water Services Corporation of \$79,339,
12 correct?

13 A. It depends how long the company stays out
14 for a rate case. In fact, the pros and cons is the
15 inside of five years. If the company stayed out
16 longer, then technically it's going to be -- they'll
17 recover more of that, but we don't true up rate case
18 expense, so --

19 Q. So these 52 customers are paying this
20 \$79,000, but they'll be paying it over time?

21 A. Yes.

22 Q. And they're paying this when their normal

1 internal labor cost is only \$2,691?

2 A. On an annual basis, 2,691 for internal
3 labor, correct.

4 Q. So clearly the ordinary internal labor is a
5 very small fraction of the \$79,339 that these
6 customers are being asked to pay; is that correct?

7 A. That's correct.

8 Q. Would it surprise you if this internal labor
9 expense that these 52 customers are being asked to
10 pay is 59 times the size of what is deducted, that
11 is 59 times the size of the \$1,342?

12 A. I don't know if I could say I agree with the
13 price. There's no relationship there.

14 Q. Now if we were to go to the other pages of
15 this -- of your spreadsheet, for example, the next
16 page, Cherry Hill, we see a similar pattern in the
17 calculations, correct?

18 A. Yes.

19 Q. Okay. So for using Cherry Hill, as an
20 example at Line 19, the internal labor prior to
21 adding back rate case expense is \$15,373; is that
22 right?

1 A. Yes, that's correct.

2 Q. And the customers of Cherry Hill then are
3 being asked to pay an additional \$76,339 for their
4 rate case expense, right?

5 A. Over an amortized 5-year period.

6 Q. Yes, over an amortized period.

7 Going to your response to 1.5, you were
8 asked what happens when the captime labor
9 subtraction is not equal to the rate case expense
10 labor added (sic) back, and your response is these
11 amounts will not equal because internal labor that
12 are deducted from the salary amounts are expense
13 reductions that took place during the test year.
14 This would include the employees' time working on
15 rate cases outside of Illinois and capital projects.

16 Internal labor included for rate case
17 expense for the six companies would have been
18 incurred after the test year; is that correct?

19 A. Yes.

20 MR. SEIDEL: Are you going to offer this as an
21 exhibit?

22 MS. SATTER: Yes.

1 MR. SEIDEL: Because the question you asked is
2 not the same as what appears in the document, but I
3 wouldn't have an objection if the exhibit's offered.

4 MS. SATTER: Yes. I'm offering all of the pages.

5 THE WITNESS: I see that, yes.

6 MS. SATTER: Q. Does this statement explain what
7 you believe is wrong with Mr. Brosch's analysis,
8 that is that the larger amounts of rate case expense
9 hours will be charged to these companies and others
10 after the test year for activities that occurred
11 after the test year?

12 A. Right. I don't think his analysis considers
13 that fact.

14 Q. Do you think that the WSC had to hire new
15 employees after the test year to be able to prepare
16 and present these rate cases?

17 A. I don't -- could you repeat that?

18 Q. Do you think that it was necessary for the
19 WSC to hire more people to present these rate cases?

20 MS. CARDONI: I am going to object to that
21 because it calls for speculation.

22 MS. SATTER: If she knows.

1 JUDGE DOLAN: I'll overrule.

2 THE WITNESS: I don't know if they had to hire
3 more people for the rate cases.

4 MS. SATTER: Q. Okay. So if they don't hire
5 more employees, then wouldn't the allocation of
6 these large amounts of money and time to the rate
7 case increase the amount of captime that the WSC is
8 allocating for the period after the test year? Did
9 you understand my question?

10 A. No.

11 Q. Okay. If the -- if the WSC after the test
12 year allocates more time and money to rate case
13 expense, then does that reduce the amount of
14 total -- of the remaining WSC salary expense as
15 available for allocation?

16 A. I suppose if you consider WSC in total
17 globally, for example, 9-30-2011, those -- the total
18 of that cost is going to be reduced by the amount of
19 capitalized time that was charged to these six
20 Illinois companies, but that figure does not affect
21 what is in this rate case because this company's
22 rate case internal labor is based on 2010 --

1 Q. And we don't know how much was allocated for
2 rate case expense globally for the company in prior
3 years, do we?

4 A. No.

5 Q. Now if other utilities experienced reduced
6 allocation of WSC labor costs after the test year --
7 after our test year, because of all these hours that
8 were spent on this rate case, wouldn't those
9 utilities need to reflect that reduction in the
10 remaining expense -- remaining WSC expense in order
11 for the WSC expense to be properly recovered?

12 A. Well, it's my understanding that they're
13 regulated utilities, so they're not going to just
14 all of a sudden change their rates every year for
15 internal labor allocations. They would be setting
16 the same process even here based on their test year
17 whenever in rate case.

18 Q. So those companies throughout the utilities'
19 system will be paying an allocated WSC cost that
20 does not necessarily reflect the amount that was
21 carved out and charged to the Illinois ratepayers?

22 A. Correct.

1 Q. If I could just have a minute. I don't
2 think I have -- I have one other question and that
3 is in connection with your direct and it also has to
4 do with the salaries.

5 I notice that on Page 13 in your
6 Schedule 1.12 for the various utilities I believe
7 you increased the salaries and benefits adjustment
8 from what the company had proposed. Can you explain
9 why you did that?

10 A. I did that because the company provided
11 evidence that WSC had added additional employees
12 after the end of the test year, so they provided --
13 so it would consider a pro forma adjustment to the
14 internal labor at 9-30-2010 to include those
15 additional costs.

16 Q. Do you know whether those additional
17 employees were hired after the test year to work on
18 rate cases such as those in this state?

19 A. I do not.

20 Q. If, in fact, that's what happened, then
21 there would be a double counting, wouldn't there?

22 A. No. If you want me to expand, those -- I

1 believe there were five employees added, and so the
2 cost pro forma adjustment, as an allocated amount of
3 their salaries, to say as if they were employees
4 during the test year, this is the proper internal
5 labor. And then if any of those costs were -- they
6 would have been considered in the captime adjustment
7 in the deferred rate case charge, so it's the same
8 principle exactly. It's just an additional five --
9 I think it was five employees hired after the end of
10 the test year.

11 Q. So essentially this is a post-test year
12 increase in costs?

13 A. Correct.

14 Q. Do you know if the number of employees --
15 excuse me -- if the number of customers changed
16 during that period as well?

17 A. I do not know.

18 Q. So you don't know if the ERCs drove this
19 change -- post-test year ERCs drove this change?

20 A. I don't know.

21 MS. SATTER: Okay. Thank you very much. I have
22 no further questions. I would like to move for

1 admission of AG Cross Exhibit 2.

2 JUDGE DOLAN: Any objections?

3 MR. SEIDEL: No.

4 MS. CARDONI: None.

5 JUDGE DOLAN: Then AG Cross Exhibit 2 will be
6 admitted into the record.

7 (Whereupon, AG Cross
8 Exhibit No. 2 was
9 received in evidence.)

10 Do we have any --

11 MR. SEIDEL: I don't have any.

12 JUDGE DOLAN: -- questions?

13 How about redirect?

14 MS. CARDONI: Judge, we may have some redirect.

15 Can I have a brief recess to discuss with my client?

16 JUDGE DOLAN: Yes.

17 MS. CARDONI: Thank you.

18 JUDGE DOLAN: Off the record.

19 (Off the record.)

20 Back on the record.

21

22

1

2

REDIRECT EXAMINATION

3

BY

4

MS. CARDONI:

5

Q. Ms. Hathhorn, the AG asked you a few

6

questions about the benefits of lead-lag studies and

7

their effects on revenue requirements. Do you have

8

anything else to add to that subject?

9

A. Yes. I just wanted to make sure it's clear

10

for the record how controversial these lead-lag

11

studies can be and how much of a drain on resources

12

they can be during litigated proceedings even though

13

they only produce a very small percentage of the

14

ultimate revenue requirement.

15

For example, in this case, just using

16

Charmar as an example, using a 45-day method results

17

in less than one percent of the revenue requirement

18

that's going to be recovered, so that has to be

19

considered because once a lead-lag study is

20

presented in the case, it's not only the cost of the

21

case, but the resources of the company analyzing

22

data requests and litigating it versus how much

1 revenue is actually produced from the study will
2 produce with the negative amount from the study.

3 MS. CARDONI: Thank you. I don't have any
4 further questions. Judge, I did -- before
5 Ms. Hathorn was excused, I want to admit a cross
6 exhibit even though I don't have questions on it.

7 JUDGE DOLAN: Okay. Is there any recross before
8 we begin this?

9 MR. SEIDEL: No. Hope not.

10 MS. SATTER: I just have one question. I'm
11 sorry.

12 RECROSS EXAMINATION

13 BY

14 MS. SATTER:

15 Q. Are there -- other than the 45-day formula,
16 are you aware of any other -- anything else that can
17 be done in determining cash working capital besides
18 lead-lag and the 45-day formula?

19 A. Nothing, other than Mr. Brosch mentioned the
20 balance sheet approach, but I have not heard of that
21 or seen that litigated in another case.

22 Q. So you are not familiar with the balance

1 sheet approach?

2 A. No.

3 MS. SATTER: Thank you. I have no more
4 questions.

5 JUDGE DOLAN: Okay. Go ahead, Ms. Cardoni.

6 (Whereupon, ICC Staff
7 Group Exhibit No. 1
8 was previously marked
9 for identification.)

10 MS. CARDONI: I have what has been marked as ICC
11 Staff Group Exhibit 1 Confidential. This is a
12 series of DRs from Ms. Hathhorn to the company that
13 were used in supplementing AG Cross Exhibit 2, I
14 believe.

15 MS. SATTER: I'm sorry. What are you calling it?

16 MS. CARDONI: I'm calling it ICC Staff Group
17 Exhibit 1 Confidential. And at this time I would
18 like to move for admission into evidence of ICC
19 Staff Group Exhibit 1 Confidential.

20 JUDGE DOLAN: Is there any objection?

21 MR. SEIDEL: Can we go off the record for a
22 minute to discuss this?

1 JUDGE DOLAN: Okay. Off the record.

2 (Off the record.)

3 We can go back on the record.

4 A discussion took place off the record
5 concerning this document, and I believe now I will
6 ask if there are any objections to Staff Group
7 Exhibit 1 Confidential be admitted into the record.

8 MR. SEIDEL: Not from the companies.

9 MS. SATTER: No.

10 JUDGE DOLAN: Then Staff Group Exhibit No. 1
11 Confidential will be admitted into the record.
12 Thank you, Ms. Hathhorn.

13 MS. HATHHORN: Thank you.

14 (Whereupon, Staff Group
15 Exhibit No. 1 was
16 received in evidence.)

17 JUDGE DOLAN: Are we ready for our next witness?

18 MR. SEIDEL: I was going to suggest a 10-minute
19 break, your Honor. I don't think this witness will
20 take that long, so either way. We could go ahead.

21 JUDGE DOLAN: If you want to.

22 MS. SATTER: Do you need a 10-minute break? I

1 would just assume -- we're taking Ms. Freetly?

2 MR. SEIDEL: Yes, Ms. Freetly. Shall we go
3 ahead?

4 MS. SATTER: Yeah --

5 MR. SEIDEL: Yeah. Okay.

6 MS. SATTER: -- if you don't mind, and then if
7 you want to take a break.

8 MR. SEIDEL: Yeah, that will be fine.

9 JUDGE DOLAN: Okay. Go ahead.

10 MR. LANNON: Staff will call staff witness Janice
11 Freetly to the stand.

12 JUDGE DOLAN: Good morning, Ms. Freetly. Please,
13 raise your right hand.

14 (Whereupon, ICC Staff
15 Exhibit Nos. 3.0 thru
16 3.09 were previously
17 marked for
18 identification.)

19 (Witness sworn.)

20 JANICE FREETLY,
21 called as a witness herein, having been first duly
22 sworn, was examined and testified as follows:

1

2

DIRECT EXAMINATION

3

BY

4

MR. LANNON:

5

Q. Did you respond for the record?

6

A. Oh.

7

Q. Your microphone is not on for some reason.

8

JUDGE DOLAN: There we go.

9

THE WITNESS: I do.

10

JUDGE DOLAN: Thank you. We saw you say it, but

11

we didn't hear you say it.

12

MR. LANNON: Q. As long as the mic is working --

13

hopefully it is -- could you please state your full

14

name for the record, spelling your last name?

15

A. Janice Freetly. Freetly is spelled

16

F-r-e-e-t-l-y.

17

Q. And who is your employer and what is your

18

business address?

19

A. I'm employed by the Illinois Commerce

20

Commission at 527 East Capitol Avenue, Springfield,

21

Illinois, 62701.

22

Q. And what is your position at the Illinois

1 Commerce Commission?

2 A. I'm a senior financial analyst in the
3 finance department.

4 Q. And you prepared written exhibits to be
5 submitted in this proceeding, didn't you?

6 A. Yes.

7 Q. And do you have before you a document marked
8 for identification as Staff Exhibit 3.0 consisting
9 of a cover page, table of contents, 41 pages of
10 narrative testimony, Schedules 3.01 through 3.09,
11 and titled, "The Direct Testimony of Janice
12 Freetly?"

13 A. Yes.

14 Q. And did you prepare that documentation for
15 presentation in this matter?

16 A. Yes, I did.

17 Q. Do you have any corrections to make to Staff
18 Exhibit 3.0?

19 A. No, I do not.

20 Q. And is the information contained in Staff
21 Exhibit 3.0 true and correct to the best of your
22 knowledge?

1 A. Yes.

2 Q. And if I were to ask the same questions, as
3 set forth in Staff Exhibit 3.0, would your responses
4 be the same today?

5 A. Yes.

6 MR. LANNON: Your Honor, I move for admission
7 into evidence Staff Exhibit 3.0 with the attached
8 schedules and note for the record that this is the
9 same document filed on e-docket on October 20, 2011.

10 JUDGE DOLAN: Are there any objections?

11 MR. SEIDEL: No, your Honor.

12 MS. SATTER: No.

13 JUDGE DOLAN: Then Staff Exhibit 3.0 with the
14 attached schedules will be admitted into the record.

15 (Whereupon, Staff Exhibit
16 No. 3.0 thru 3.09 were
17 received in evidence.)

18 MR. LANNON: Thank you, your Honor.

19 Ms. Freetley is available for cross
20 examination.

21

22

1

2

CROSS EXAMINATION

3

BY

4

MS. SATTER:

5

Q. Hello, Ms. Freetly. Susan Satter for the

6

Attorney General of the State of Illinois. I have

7

some questions concerning the scope of your analysis

8

in making your recommendation for return on equity.

9

Is it true that in your analysis you

10

did not take into consideration the length of time

11

between the company's last rate case and the current

12

rate case?

13

A. That is correct.

14

Q. And is it also correct that you did not take

15

into consideration the size of the increases

16

requested?

17

A. That is correct.

18

Q. And is it also true that you did not take

19

into consideration the quality of the management at

20

the utilities requesting increases?

21

A. That is correct.

22

Q. And it's also true that the samples that you

1 looked at were not screened for length of time that
2 they were out before seeking a rate increase; is
3 that right?

4 MR. LANNON: Can you clarify. Do you mean the
5 utility samples?

6 MS. SATTER: Q. Well, let me step back. You
7 looked at a sample of water companies, water
8 utilities, and a sample of more general utility
9 companies, correct?

10 A. Correct.

11 Q. So the sample of water companies, did you
12 analyze how long the companies that populated that
13 sample were out before their last rate increase?

14 A. No.

15 Q. And the same question for the utility
16 sample?

17 A. No.

18 Q. Did you screen the samples for size?

19 A. Size of the utility or --

20 Q. Yes, size of the utility.

21 A. No.

22 Q. Did you consider the customer impact of the

1 increases requested by these utilities in
2 determining the appropriate allowance for equity in
3 your analysis?

4 A. Well, by "customer impact" are you referring
5 to the ability of the customers to pay for the rate
6 increase?

7 Q. Yes, we can use that definition.

8 A. That's not a factor that affects cost of
9 capital, no.

10 Q. And you also didn't consider any water
11 quality issues in assessing cost of capital; is that
12 correct?

13 A. That's correct.

14 Q. And you never considered water quality
15 issues; isn't that right?

16 A. As I said, it's not a factor that would
17 affect the cost of capital.

18 Q. That would affect -- do you ever modify the
19 results of your say DCF and cap MM analysis to
20 reflect other factors, such as the amount of time
21 that the company might have been out before seeking
22 a rate increase or the size of the increase

1 requested?

2 MR. LANNON: Your Honor, I'm going to object. I
3 think that the witness has answered at least
4 specifics that make up that last question.

5 MS. SATTER: Well, she said she didn't make that
6 adjustment here. My question is whether the
7 cap M -- M DCF analysis are ever -- or are the
8 results of those analyses ever modified by these
9 factors.

10 JUDGE DOLAN: I'll overrule.

11 THE WITNESS: So your question is whether the
12 cost of capital is affected by these factors?

13 MS. SATTER: Q. Whether your recommendation is
14 affected by those factors.

15 A. Well, it's within the Commission's
16 discretion to make that determination, but it's not
17 part of the cost-of-capital analysis.

18 Q. So you're presenting what you see as the
19 cost of capital in the marketplace; is that right?

20 A. Right, the cost of capital to the companies.

21 Q. And then it would be up to the Commission to
22 determine whether that should be modified to reflect

1 other factors that might affect consumers or the
2 company?

3 A. That would be at the Commission's
4 discretion, yes.

5 MS. SATTER: Thank you very much. I have no
6 other questions.

7 MR. LANNON: Okay. Could we go off the record
8 just for a second?

9 JUDGE DOLAN: Yes.

10 (Off the record.)

11 We're going back on the record. Staff,
12 you want to introduce your next witness.

13 MS. CARDONI: At this time Staff calls Philip
14 Rukosuev to the stand.

15 JUDGE DOLAN: Good morning. Mr. Rukosuev, if you
16 could please raise your right hand.

17 (Whereupon, ICC Staff
18 Exhibit Nos. 5.0 thru
19 5.10 & 11.0 were
20 previously marked for
21 identification.)

22 (Witness sworn.)

1

2 Okay. Proceed, counsel.

3 PHILIP RUKOSUEV,

4 called as a witness herein, having been first duly
5 sworn, was examined and testified as follows:

6 DIRECT EXAMINATION

7 BY

8 MS. CARDONI:

9 Q. Please state your full name for the record
10 and spell your last name.

11 A. My name is Philip Rukosuev. The last name
12 is spelled R-u-k-o-s-u-e-v.

13 Q. And who is your employer and what is your
14 business address?

15 A. I am employed by the Illinois Commerce
16 Commission. My business address is 527 East Capitol
17 Avenue, Springfield, Illinois.

18 Q. And what is your position at the Illinois
19 Commerce Commission?

20 A. I work in the financial analyst position at
21 the rate department as a rate analyst.

22 Q. Did you prepare written exhibits for

1 submittal in this proceeding?

2 A. Yes.

3 Q. Do you have before you a document which has
4 been marked for identification as ICC Staff Exhibit
5 5.0 consisting of a cover page, table of contents,
6 36 pages of narrative testimony, Schedules 5.01 to
7 5.10 and is entitled, "The Direct Testimony of
8 Philip Rukosuev?"

9 A. Yes.

10 Q. Did you prepare that document for
11 presentation in this matter?

12 A. Yes.

13 Q. Do you also have before you a document,
14 which has been marked for identification as ICC
15 Staff Exhibit 11.0, consisting of a cover page,
16 19 pages of narrative testimony, and is entitled,
17 "The Rebuttal Testimony of Philip Rukosuev?"

18 A. Yes.

19 Q. Did you prepare that document for
20 presentation in this matter?

21 A. Yes.

22 Q. Do you have any corrections to make to ICC

1 Staff Exhibits 5.0 or 11.0?

2 A. Yes. I have two minor corrections to make
3 to ICC Exhibit 5.0. And if you please turn to Page
4 14, Line 246, I'll read the first few words. It
5 says "In contrast, I increased the company's BFCs."
6 Instead it should read "In contrast, I developed my
7 BFCs." "I increased the company's" should be
8 changed to "I developed my."

9 Q. Mr. Rukosuev, could you hold on there. The
10 picture blacked out, but it seems to be back, so
11 continue. We lost you for a second, but you're
12 back.

13 A. I'll repeat. So Line 246 it reads, "In
14 contrast, I increased the company's BFCs." It
15 should read, "In contrast, I developed my BFCs."

16 JUDGE DOLAN: We are experiencing a little
17 technical difficulty. Look like it's okay.

18 MS. CARDONI: Q. You can continue.

19 A. Did you hear the corrections?

20 Q. Yes, we heard you. We were having some
21 visibility issues, but continue.

22 A. And the next correction will be on Page 18.

1 Please refer to Line 320. I will read the last few
2 words. It says "By modifying the company's BFCs..."
3 it should read "By modifying my proposed BFCs..."

4 Q. Thank you. Are those the only two
5 corrections that you have to Exhibit 5.0?

6 A. Yes.

7 Q. And you have no corrections, correct, to
8 Exhibit 11.0?

9 A. That's correct.

10 Q. Is the information contained in ICC Staff
11 Exhibits 5.0 and 11.0 true and correct to the best
12 your knowledge?

13 A. Yes.

14 Q. If I were to ask the same questions as set
15 forth in Exhibits 5.0 and 11.0, would your responses
16 be the same today?

17 A. Yes.

18 MS. CARDONI: Your Honor, at this time I move for
19 admission into evidence of ICC Staff Exhibits 5.0
20 and 11.0 and note for the record that these are the
21 same documents that were filed on e-docket on
22 October 20th and December 15, 2011.

1 JUDGE DOLAN: Any objections?

2 MR. SEIDEL: No, your Honor.

3 MS. SATTER: No, your Honor.

4 JUDGE DOLAN: All right. Then ICC Staff Exhibit

5 5.0 with attachments 5.01 through 5.10 and Staff

6 Exhibit 11.0 will be admitted into the record.

7 (Whereupon, ICC Staff

8 Exhibit Nos. 5.0, 5.01

9 thru 5.10 and 11.0 were

10 received in evidence.)

11 MS. CARDONI: Thank you.

12 At this time Mr. Rukosuev is available

13 for cross.

14 MS. SATTER: I have questions if the company

15 doesn't.

16 JUDGE DOLAN: Okay. Proceed.

17 CROSS EXAMINATION

18 BY

19 MS. SATTER:

20 Q. Good morning. Susan Satter for the People

21 of the State of Illinois.

22 A. Good morning.

1 Q. I would like to direct your attention to
2 your rebuttal testimony. I believe all my questions
3 will be directed to your rebuttal testimony and
4 starting at Page 11.

5 A. Okay.

6 Q. And at that point you respond to AG witness
7 Brosch's recommendations regarding phase-in; is
8 that --

9 A. Yes.

10 Q. -- correct?

11 Now at Line 251 you say Mr. Brosch's
12 proposal is to phase-in the recovery of each
13 company's approved revenue requirement from this
14 proceeding over a period of years yet to be
15 determined.

16 Now do you understand that Mr. Brosch
17 later revised and refined his recommendations in his
18 rebuttal testimony and then updated his phase-in
19 plan that was filed with his rebuttal testimony?

20 A. His revised rebuttal testimony, yes.

21 Q. And do you recall that his updated phase-in
22 plan was laid out in his Exhibit AG 2.1?

1 A. Yes.

2 Q. So do you know that now Mr. Brosch has
3 recommended a specific phase-in period that is
4 customized for each utility?

5 A. That's my understanding, although the -- my
6 rebuttal position where I stated that yet to be
7 determined, I still have this in mind. Although
8 Mr. Brosch did provide a revised exhibit, I still
9 have concluded my understanding of whether this is a
10 truly concrete plan, which should not be changed, or
11 there is some sort of room to move as far as the
12 years. So my understanding still remains that his
13 proposal might be changed based on the final order.

14 Q. Do you think that the proposal might be
15 changed based on the size of the recommended
16 requirements allowed for those companies?

17 A. Yes.

18 Q. Now at Line 254, that would be the next
19 page -- I'm sorry -- Line 257, you say Mr. Brosch's
20 proposal would not allow for the full recovery of
21 approved revenue requirements of any of the
22 companies until potentially several years from the

1 issuance of the ICC's order in this proceeding.

2 My question to you is isn't the point
3 of a phase-in plan to delay the full recovery of
4 higher rates until the higher rates can be tolerated
5 by the customer?

6 A. Yes.

7 Q. On Page 15 you have a table that shows
8 various increases that Utilities, Inc.'s water
9 companies have received or you have some that were
10 requested. No, you have the ones that were granted
11 on the far right.

12 A. Yes.

13 Q. Are you aware that the Commission has
14 granted rehearing in the Camelot and I believe Great
15 Northern cases?

16 A. Yes, the rehearing was granted.

17 Q. And you recall that the rehearing was
18 granted on the issue of mitigation strategies to
19 alleviate rate shock?

20 A. Yes. For the point to explore that
21 possibility, there was not a concrete direction but
22 more of a revisit the issue which is pending.

1 Q. Do you know what the Commission's concern
2 was in granting rehearing other than mitigation
3 strategies to alleviate rate shock?

4 A. The way I understand, the Commission would
5 like the parties to explore the issue of rate shock
6 in more depth, and the outcome of the rehearing will
7 be based on that which it will provide more
8 information on that topic.

9 Q. Now isn't it true that in that case, the
10 11-0059, you testified?

11 A. Yes.

12 Q. And do you recall which of the companies you
13 addressed?

14 A. I addressed Camelot.

15 Q. And didn't you testify in that case that the
16 increases could be considered rate shock?

17 A. Subject to check, I -- this is what I did
18 say.

19 Q. Didn't you testify -- I'm sorry to bounce
20 around a little bit, but going back to Page 12 where
21 you commented that a phase-in won't allow for full
22 recovery until several years after the issuance of

1 the order, you say this by itself is a concern. So
2 when you say it is a concern, would you agree that
3 there is also a concern that the rate increases
4 resulting from this docket could constitute rate
5 shock? Is that the concern as well?

6 A. I believe the rate shock issue is a concern
7 in the proceeding and the parties discuss the
8 decisions, yes.

9 Q. Did you say the parties are addressing this
10 issue?

11 A. Staff and intervenors. Rate shock is a fair
12 issue to address and the parties address that issue.

13 Q. Okay. I'm sorry. I wasn't sure I heard you
14 properly.

15 So would you agree that rate shock
16 would be a concern when customers' monthly water
17 bills are doubled or tripled in a single rate
18 change?

19 A. I believe the issue of rate shock is
20 obviously based on judgment and each case stand
21 alone, and the issue in each case would be obviously
22 studied on their own merit.

1 So when you say that the rates double
2 or triple, it's important to look at the percentages
3 as well as dollar amounts to reach an opinion about
4 rate shock for each particular case.

5 Q. And have you conducted any studies of how
6 customers react to very large and sudden increases?

7 A. Could you rephrase the question.

8 Q. Did you -- have you done any studies of how
9 customers react to very large and sudden rate
10 increases?

11 A. No. I have not conducted such studies.

12 Q. Have you considered economic conditions,
13 such as unemployment levels, property foreclosure
14 rates, customers' ability to pay, receipt of public
15 assistance in these companies' service territories
16 in assessing whether a phase-in or some other rate
17 shock mitigation strategy is appropriate?

18 A. I have not looked at those factors in my
19 analysis.

20 Q. Can I ask you if you looked at the public
21 comments that were filed with the ICC for these
22 companies?

1 A. With respect to public comments, I believe
2 staff in general consider them and looks at them,
3 but I cannot say that I necessarily took the public
4 comments into account when developing rates or
5 completing my analysis. That kind of information is
6 useful in general, but I cannot comment on the fact
7 that I did actually utilize public comments to
8 necessarily develop my rates which should be
9 cost-based.

10 Q. So did you look at the public comments?

11 A. I have looked at public comments. I looked
12 at many other documents in this proceeding.

13 Q. So you looked at the public comments in
14 this -- in these cases; is that right?

15 MR. LANNON: Objection; asked and answered.

16 MS. SATTER: I can't tell if he did or not.

17 JUDGE DOLAN: I have to agree with her. I'm not
18 sure if he did or not.

19 MR. LANNON: He told you not only that he did but
20 exactly how he considered them in general.

21 MS. SATTER: I'm asking specifically. It's not
22 a trick question.

1 THE WITNESS: Public comments were reviewed by
2 me. They were available to me and I did review them
3 in general.

4 If you ask me whether I take into
5 account public comments like I take into account
6 testimony, and accounting issues, and different
7 cost-of-service study issues in developing my
8 analysis, again, I consider public comments in
9 general, but my analysis focused on recovering the
10 revenue requirement which is proposed by staff in
11 this case.

12 MS. SATTER: Q. So would it be accurate to say
13 that in making your proposal in this case, the only
14 factor that you considered was how to design rates
15 so that the company could recover its allowed
16 revenue requirement?

17 A. I will answer that in two parts, yes,
18 because I am -- I need to recover rates, which
19 will -- which are based on staff's proposed revenue
20 requirement.

21 And partially, going back to your
22 question about rate shock, again, this is based on

1 judgment and things like public comments go into
2 things like judgment.

3 So I do consider those things and I do
4 considerate rate shock, and all of those things
5 together come about into my analysis when I present
6 my rates.

7 Q. Can you say -- can you tell us how your
8 consideration of rate shock affected your proposed
9 rates --

10 A. In --

11 Q. -- in these cases?

12 A. In this one, not Camelot?

13 Q. In this docket. If you like, we can focus
14 on Charmar, because that's a rather startling
15 example.

16 A. Unfortunately, I did not address Charmar,
17 although I did --

18 Q. Okay.

19 A. I concentrated on Ferson Creek and Harbor
20 Ridge, but to give you -- if you would like to have
21 an example for how did I consider the issue of rate
22 shock, I'll just give you a brief example.

1 In my direct testimony, starting on
2 Page 23, for example, through Page 27, I looked at
3 the commercial class for Harbor Ridge and I proposed
4 a three-step mitigation solution, because I did
5 consider some increase to be -- I used the increases
6 and I found a way to reduce those increases in
7 commercial class by spreading the costs around to
8 the residential class.

9 So when you asked me about rate
10 shock -- so in my direct testimony starting at Page
11 23, this is basically out of -- my mitigation steps
12 are based on judgment, and I did offer a way to
13 mitigate certain increases, and this is how I dealt
14 with rate shock in my opinion, so this is a perfect
15 example of my testimony.

16 Q. So in your recommendation on how to deal
17 with rate shock, you spread the costs and you spread
18 the increases across customer classes, in other
19 words, across the commercial and residential class
20 to mitigate the effect on the commercial class?

21 A. If I remember correctly, commercial class
22 propose only a few customers where the residential

1 class has many more. And in this particular case,
2 which was a targeted procedure to mitigate the
3 increase in the commercial class, I found a way to
4 do it in the most applicable manner and meet the
5 very targeted approach to this specific view of
6 customers.

7 Q. Okay. So you agree that rate mitigation
8 proposals can be appropriate when issues of rate
9 shock are presented?

10 A. Yes. In this case, I mitigated the rates
11 and at the same time I allowed the company to
12 recover the full revenue costs.

13 Q. And you did that by charging other customers
14 higher rates?

15 A. Slightly higher rates, but this is how you
16 usually mitigate increases. You spread costs around
17 if possible.

18 Q. Okay. Now going back to your rebuttal
19 testimony, at Line -- at Page 12, Line 264, you say
20 Mr. Brosch's proposal is described at such a high
21 level that it fails to address significant details
22 needed to properly evaluate and implement a phase-in

1 program. Now this is, of course, before you saw
2 Mr. Brosch's rebuttal testimony, right?

3 A. Yes.

4 Q. So do you agree that a final phase-in plan
5 cannot be applied until the overall level of the
6 revenue increase is known --

7 A. Yes.

8 Q. -- because, otherwise, it will simply have
9 to be revised to correct with respect to the new
10 revenue requirement, correct?

11 A. Yes.

12 Q. Now has staff done -- have you presented any
13 testimony, other than the shifting of cost recovery
14 that we talked about in your direct testimony? Have
15 you presented anything else to address possible
16 phase-in of the rate mitigation strategies for these
17 companies?

18 A. For the area that I reviewed, there was
19 little I could do to shift costs. There is
20 relatively -- there is basically one class of
21 customers. In order to recover the staff approved
22 revenue requirement, I was working with what I had

1 in order to -- where I needed to shift costs around
2 in order to recover staff approved revenue
3 requirements, and, unfortunately, the companies for
4 the most part had one or two classes of customers.
5 I did what I could to address the issue of rate
6 shock.

7 Q. At Line 281 you say it is unknown how that,
8 meaning the phase-in period, would affect the
9 utilities' ability to provide utility service and
10 its impact on utility customer needs.

11 Have you offered any analysis of how a
12 phase-in of rates would actually impact the
13 utilities? Do you know specifically how it would
14 impact the utilities?

15 A. Well, on Page -- on Page 13 of my testimony,
16 I provided general opinions. I did not conduct a
17 study specifically to address this concern, but I
18 did outline certain constraints in general.

19 Q. Do you know if prior to -- let's say up to
20 the present, if Utilities, Inc.'s companies' service
21 quality has been deficient?

22 A. I'm not aware of that.

1 Q. Do you know if up to the present time these
2 companies have invested money in their systems?

3 A. I'm not aware of those studies or analysis
4 about that.

5 Q. So you don't know whether over the last say
6 ten years any of these companies have made
7 investments in their plant?

8 A. I believe it's an accounting issue or
9 financial issue. I did not deal with that.

10 Q. So you don't know whether these companies
11 have had difficulty in accessing capital?

12 A. I do not know.

13 Q. Another comment that you make in your
14 testimony is that there hasn't been time to properly
15 VAT a phase-in plan. And my question is the \$10 or
16 20 percent increase guideline in Mr. Brosch's
17 testimony was in his direct testimony, isn't that
18 right?

19 A. Are you asking me about Mr. Brosch's
20 testimony that commented on --

21 Q. Yes.

22 A. I'm aware of that proposal.

1 Q. And did anything prevent you from assessing
2 that particular proposal with those guidelines?

3 A. Well, in my rebuttal testimony, to be fair,
4 I addressed general concerns and some were more
5 specific than others. Unfortunately, Mr. Brosch did
6 not address any of my concerns. He provided
7 testimony through his reply to the company, and I
8 still have concerns. First of all, he didn't
9 respond to any of my concerns.

10 Secondly, I do have additional concerns
11 about his testimony. So Mr. Brosch did not address
12 my concerns at all, so I could not -- I did not
13 comment on the fact that I considered his revised
14 plan to be better than most proposed in the direct
15 testimony.

16 Q. Are you concerned that he did not
17 immediately respond to your concerns stated in your
18 direct testimony?

19 A. Yes.

20 Q. At Page 14, Line 322, you discuss what you
21 call the fourth nominal concern and you say "This
22 corporate organization does not provide any

1 opportunity to consolidate or mitigate the revenue
2 requirement of one company with that of another
3 company, because the revenue requirement of each
4 company and its resulting rates are determined and
5 approved for each company separately and
6 distinctly."

7 A. Yes.

8 Q. Do you understand Mr. Brosch's proposal to
9 include some kind of rate consolidation?

10 A. No. This is not my understanding. My
11 fourth concern was more of a general background
12 information. I guess it goes back to the issue of
13 rate shock, and it's not directed at Mr. Brosch
14 specifically. It's a background information for the
15 NIX Q and A Page 15. So when I present my table and
16 increases, it's background discussion on why certain
17 cases you see those increases.

18 Q. So you agree that Mr. Brosch's proposal
19 treats each of the utilities separately?

20 A. Yes.

21 Q. Now at Lines 319 to 320 you say "Each of
22 these subsidiaries is its own corporate entity and

1 not related or connected to any other UI subsidiary,
2 except through ownership by a parent corporation;"
3 is that correct?

4 A. Yes.

5 Q. Now do you know if each of these
6 subsidiaries has its own employees?

7 A. I did not delve into those issues.

8 Q. So you don't know or do you?

9 A. I do not know.

10 Q. Do you know --

11 A. I assume, but I do not know.

12 Q. You assume? You assume that each company
13 has its own employees?

14 A. I assume that my Lines 318 through 320 I
15 think that -- I'm not certain talking about
16 employees. I'm just talking about the fact each
17 company stands alone, because every time it comes in
18 for a rate increase, each company has its own
19 revenue requirement, so, obviously, there's some
20 expense for each company. Each company stands alone
21 which is owned by a parent corporation.

22 So as far as if there's any employees

1 used by different companies interchangeably, I do
2 not know those details.

3 Q. So you don't know if it has -- if each
4 company has its own billing system, do you?

5 A. I did not address this topic, so I'm not --
6 I'm not sure.

7 Q. And you don't know if these companies are
8 connected by having a joint financial team, do you?

9 A. I do not know.

10 Q. You don't know if these companies are
11 connected by having shared engineers or water
12 operators?

13 A. No.

14 Q. Do you know if these companies use the same
15 Water Services Corporation as a source of resources,
16 I suppose?

17 A. I'm not aware of any specific details about
18 that. Of course, they did provide testimony, but
19 somebody else was addressing those issues.

20 Q. If it turned out that these companies shared
21 all of these factors, would that change your view
22 about whether consolidation of these companies might

1 be an avenue open for rate mitigation?

2 A. The issue of consolidation is a whole
3 different topic. It's a topic to explore either in
4 a separate proceeding, but, obviously, it's a very
5 serious topic. It's not something that I can
6 comment on at the moment, so it is a topic -- I
7 believe this topic is a standalone for a very
8 serious topic to consider.

9 Q. Now you testified that the Commission has
10 not previously approved a phase-in plan for UI
11 Utilities. Is it your position that the Commission
12 should not approve a phase-in plan because it has
13 not done so in the past?

14 A. My position is that I have outstanding
15 concerns with Mr. Brosch's plan, and some of those
16 concerns are not even addressed in his rebuttal
17 testimony, and whether the Commission should issue
18 or not approve a phase-in plan going forward, I
19 believe that -- again, I have certain concerns,
20 which were not addressed, so at this point my answer
21 is, no, I do not believe a phase-in plan is
22 appropriate, but, again, I still have concerns that

1 were not answered.

2 Q. And the only alternative rate mitigation
3 strategy that you have offered is the one in your
4 direct testimony which combines residential and
5 commercial rates; is that right?

6 A. Yes.

7 Q. Okay. What concerns did Mr. Brosch not
8 address since you have referenced them a number of
9 times?

10 A. Okay.

11 Q. I mean, other than the ones that are stated
12 in your rebuttal testimony.

13 A. Well, I will address generally a few points
14 that might or might not be in my rebuttal testimony.

15 First of all, in my rebuttal I had a
16 concern that Ms. Brosch's plan did not address
17 whether -- whether customers have to participate in
18 the phase-in plan to stay in the optional program.

19 In my opinion, again, when one thinks
20 about rate shock, it's based on individual
21 circumstances of each customer, and some customers
22 would not like to phase-in their own rates and pay

1 high rates in the future.

2 So under individual circumstances, I do
3 not know whether this plan should be applied to
4 everybody.

5 Q. Do you have an opinion on whether it should
6 be optional or mandatory?

7 A. I believe that, first of all, the issue of
8 rate shock is a matter of judgment; secondly,
9 certain customers can afford to pay rates and
10 certain customers might find it difficult. So,
11 again, we can't qualify rate shock for everybody in
12 the same manner. I'm sorry. So I would not like to
13 see a phase-in program mandatory. If you ask for my
14 opinion, no, it should not be mandatory.

15 Secondly, in my rebuttal -- secondly, the
16 assumption of how many years will it take to recover
17 companies' revenues, how many years will it take
18 them to go into effect, although you mentioned that
19 Mr. Brosch did revise his approach in rebuttal, I
20 still have a concern that the numbers of years are
21 undetermined specifically, and even if the
22 numbers -- the number of years provided by

1 Mr. Brosch are as presented in his rebuttal
2 testimony, I believe that eleven years, subject to
3 check, is excessive to recover revenues for a
4 company.

5 And another concern I had is that in
6 Mr. Brosch's testimony, he discussed that in the
7 event if the companies file for another rate case in
8 the phase-in period or prior to it when the phase-in
9 period will end, what will happen to the deferred
10 revenue the companies did not recover. His proposal
11 is unacceptable because it seems like the companies
12 will lose those unrecovered revenues.

13 So I just provided you with a few
14 points which are a matter of concern to me
15 personally.

16 Q. And so these are the concerns that you say
17 he did not address?

18 A. Those are the concerns that he either did
19 not address or concerns which --

20 Q. That you still have?

21 A. -- I still have based on reading his
22 rebuttal and his revised corrected rebuttal.

1 Q. Now at Line 334 you say it would be unfair
2 to not require the six utilities in this
3 consolidated proceeding which are also UI
4 subsidiaries to phase-in recovery of revenue
5 requirements. When you say unfair, unfair to the
6 companies?

7 A. By "unfair," I mean that it was my -- the
8 unfair part also refers to the fact that this
9 phase-in plan is mandatory for and does not allow
10 any room for choice, so it's certainly unfair to
11 force customers to participate in such a plan.

12 Q. So if it were discretionary on the part of
13 the customers, would that then eliminate that
14 concern about the unfairness to the customer.

15 A. To be fair, this concern is just one of a
16 few I mentioned.

17 Q. I'm asking about this one though.

18 A. Can you just rephrase it, because I just
19 want to make sure I answered the question correctly.

20 Q. You said that you were concerned that it was
21 unfair to the customer because they would have to
22 pay lower rates under a phase-in and then higher

1 rates ultimately down the road.

2 Is a way to address that perceived
3 unfairness -- or let me rephrase that. Is that
4 perceived unfairness addressed by making the
5 phase-in permissive to customers?

6 A. It would certainly address one of the
7 concerns.

8 Q. Okay. Now if the Commission approves the
9 phase-in plan for one or more of the utilities in
10 this case that provides compensatory interest on the
11 portion of the revenue requirement that is deferred
12 and allows full recovery of all costs, do you still
13 think the phase-in would be unfair?

14 A. Well, your question -- if I understand your
15 question, based on how I read Mr. Brosch's testimony
16 when he spoke about the percentage of those deferred
17 costs, he was rather vague about that.

18 I believe that what we have on the
19 record at this point is what we have, and I do not
20 have -- well, from reading his testimony, I did not
21 get a feeling that the companies have -- certainly
22 have a guarantee to recover those prudent costs and

1 little revenue. It was more of a if we consider it
2 prudent, then fine.

3 So to me, it's more or less an
4 open-ended proposal. It was not concrete whether
5 companies will, in fact, recover those revenues.

6 Q. Okay. So that's your understanding of his
7 rebuttal testimony?

8 A. That's one of my concerns. Of course, I do
9 understand his point, but, again, certain parts of
10 his plan are not addressed that I have certain
11 concerns.

12 Q. Now do you recall that in the Camelot and
13 Lake Holiday cases the Commission commented that it
14 was unfortunate that intervenors did not provide any
15 viable solutions to avoid or mitigate the potential
16 rate impact on customers? Are you familiar with
17 that?

18 MR. LANNON: Hang on. Just to be clear, Counsel,
19 are you talking about at a bench or in an order?

20 MS. SATTER: I believe it was in the order, in
21 the 11-0059 order.

22 MS. SATTER: Q. Do you recall that a Commission

1 concern? If you do, fine. If you don't, fine, too.

2 A. I will answer your question, if I may. I'll
3 recall verbatim in my rebuttal testimony if you
4 allow me to answer the question, quote, on Line 358.

5 Q. Right.

6 A. It says, Unfortunately, the intervenors
7 failed to provide any viable solutions to avoid
8 mitigating any potential rate impact on customers.

9 In summary, there is no legal basis for
10 the Commission to reject a rate increase that
11 reflects the reasonable cost of providing service
12 and expend our economic group to file a rate
13 increase in question.

14 Q. So in this case though you have not
15 responded to that concern by offering any solution
16 to avoid mitigating potential rate impasse other
17 than what's in your direct testimony concerning the
18 residential and commercial classes for a rate
19 increase?

20 A. Based on my reading -- based on my reading
21 of that, first off, I was working with what I had
22 where I could. Secondly, I do not again reject an

1 increase, which is based on costs.

2 MS. SATTER: I have no further questions. Thank
3 you.

4 JUDGE DOLAN: Any redirect?

5 MS. CARDONI: Can I take a break again.

6 JUDGE DOLAN: Yes, go off the record.

7 (off the record.)

8 Okay. Back on the record.

9 MS. CARDONI: Thank you, Judge. Staff will have
10 no redirect at this time.

11 JUDGE DOLAN: Okay. Then thank you,
12 Mr. Rukosuev. You're done.

13 MR. RUKOSUEV: Thank you.

14 JUDGE DOLAN: Okay. So then we have just a
15 couple of --

16 MS. CARDONI: Yes, Judge. At this time Staff
17 would like to enter into admission of evidence what
18 has been marked as ICC Staff Exhibit 8.0. That is
19 entitled, "The Direct Testimony of William H.
20 Atwood, Jr.," filed on e-docket on October 20, 2011.

21 In addition, staff would move for the
22 admission into evidence of what has been marked as

1 ICC Staff Exhibit 15.0, entitled, "The Rebuttal
2 Testimony of William H. Atwood, Jr.," that was filed
3 on e-docket on December 15, 2011. We would like to
4 admit this via affidavit. That affidavit has been
5 marked as ICC Staff Exhibit 21.0 and is entitled,
6 "The Affidavit of William H. Atwood, Jr.," and that
7 has not yet been filed on e-docket. We would seek
8 leave to do so tomorrow.

9 (Whereupon, ICC Staff
10 Exhibit Nos. 8.0, 15.0 &
11 21.0 were marked for
12 identification.)

13 JUDGE DOLAN: Okay. Is there any objection?

14 MR. SEIDEL: No, your Honor.

15 JUDGE DOLAN: Okay. Then ICC Staff Exhibit 8.0,
16 ICC Staff Exhibit 15.0, and ICC Staff Exhibit 21.0
17 will be admitted into the record.

18 (Whereupon, ICC Staff
19 Exhibit Nos. 8.0, 15.0 &
20 21.0 were received in
21 evidence.)

22 MS. CARDONI: Thank you.

1 JUDGE DOLAN: Mr. Seidel.

2 MR. SEIDEL: Thank you, your Honor.

3 (Whereupon, Companies
4 Exhibit Nos. 2.0 &
5 4.0 were previously
6 marked for
7 identification.)

8 The companies would like to move for
9 the admission of the prepared direct and rebuttal
10 testimony that has been filed by Bruce Haas in these
11 proceedings, and we would request permission to do
12 so via affidavit, which we will submit as a late
13 filed exhibit tomorrow or today, and which will be
14 marked for identification purposes as the Companies
15 Exhibit 4.1. In that affidavit he will swear to the
16 truthfulness of the testimony that the following
17 exhibits, which have been submitted and filed by
18 e-docket, first in Docket 11-0561, filed on e-docket
19 on June 29, 2011, the document identified as Exhibit
20 2.0, "Direct Testimony of Bruce T. Haas" consisting
21 of cover page and six typewritten questions and
22 answers, and Docket 11-0562 also filed on June 29,

1 2011, a document which is identified as Exhibit 2.0,
2 "Direct Testimony of Bruce T. Haas," consisting of a
3 cover page and six typewritten pages of questions
4 and answers.

5 In Docket 11-0563 also filed on June
6 29, 2011 via e-docket, there is an exhibit that's
7 been identified as Exhibit 2.0, The Direct Testimony
8 of Bruce T. Haas, consisting of a cover page and
9 seven typewritten pages in questions and answers. I
10 would note that this particular document is missing
11 Page 1, but it is the same testimony questions and
12 answers that appear in the dockets -- the other
13 dockets basically identify himself and describing
14 his responsibilities.

15 Next is Docket 11-0564 filed via e-docket
16 on June 29, 2011. The document is identified as
17 Exhibit. 2.0, Direct Testimony of Bruce T. Haas.
18 This is in Killarney Water case, consisting of a
19 cover page and six typewritten pages of questions
20 and answers, in Docket 11-0565 the Ferson Creek
21 Utilities Company docket filed via e-docket on June
22 29, 2011, Exhibit 2.0, Direct Testimony of Bruce T.

1 JUDGE DOLAN: Any objections?

2 MR. LANNON: None from staff.

3 MS. CARDONI: None.

4 JUDGE DOLAN: Then the companies' testimony
5 marked as Exhibit 2.0 in each of the dockets will be
6 admitted into the record, and the rebuttal testimony
7 marked as Company Exhibit 4.0 is also admitted into
8 the record, and late-filed affidavit as 4.1 will
9 also be admitted into the record.

10 (Whereupon, Companies'
11 Exhibit Nos. 2.0, 4.0 &
12 4.1 (late filed) were
13 received in evidence.)

14 MR. SEIDEL: Thank you, your Honor.

15 JUDGE DOLAN: Thank you.

16 I will not mark this matter heard and
17 taken, since we do have to have the exhibits, and
18 according to this the schedule that I'm looking at,
19 we have February 22, 2012 for the simultaneous
20 initial briefs filed by the parties. Does that
21 accurately reflect --

22 MS. CARDONI: Yes.

1 JUDGE DOLAN: -- everybody's understanding?

2 Then with that, it will be entered and
3 continued generally, and I will mark the record
4 heard and taken at this point.

5 MR. LANNON: Thank you, your Honor.

6 JUDGE DOLAN: Thank you all.

7 (Whereupon, the above
8 matter was continued
9 generally.)

10

11

12

13

14

15

16

17

18

19

20

21

22